

REMARKS

At the outset, the courtesies extended by the Examiner and his Supervisory Patent Examiner at the 1 August 2006 interview are appreciatively noted. At the interview, the references cited by the Examiner in the 6 June 2006 Office Action were discussed in light of the clarifying amendments proposed to the Claims, as set forth herein. Agreement with respect to the Claims having been reached, Claims 1, 38, 41, and 46-48 are accordingly amended for further prosecution with the other pending Claims. It is believed that with such amendment of Claims, there is a further clarification of their recitations.

In the Office Action, the Examiner first objected to the Specification as not providing proper antecedent basis for the claimed subject matter. More specifically, the Examiner stated that the Specification makes no mention of a "locking bar," "bar," or "lock." It is respectfully submitted that by the Response of 9 May 2005 earlier filed in this case, Applicants did in fact amend the paragraph at page 7, lines 7-11 to provide greater clarity and preserve consistency with notational changes incorporated in the reference characters used in the Drawings. The paragraph as amended makes clear mention of "a stop member 44 that will lock at opposite ends 53 and 54 of locking bar 52 (Fig. 1)." It is believed that this language obviates the objection to the Specification, and withdrawal of the objection is respectfully requested.

Also in the Office Action, the Examiner rejected Claim 38 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claim 38 is accordingly amended to remove the potentially confusing language noted by the Examiner.

The Examiner rejected Claims 1, 25-27, 33-38, and 45 under 35 U.S.C. § 102(b) as being anticipated by the Herbert, et al. reference. The Examiner additionally rejected Claims 29-32 and 40 under 35 U.S.C. § 103(a) as being unpatentable over Herbert, et al., in view of the Newman, et al. reference. In setting forth the latter rejection, the Examiner acknowledged that Herbert, et al. fails to disclose a guide channel in its handle to guide the housing, but cited Newman, et al. for disclosing this feature, concluding that it would have been obvious to combine as much with Herbert, et al.'s features.

Claims 41-44 and 46-48 have also been rejected under 35 U.S.C. § 103(a), but as being unpatentable over Newman, et al. in view of Herbert, et al. The Examiner acknowledged in this regard that Newman, et al. fails to disclose a blade disengaging actuator, but cited Herbert, et al. for disclosing the feature. Once more, the Examiner concluded that it would have been obvious to combine the feature with those disclosed by Newman, et al.

As each of the newly-amended independent Claims 1, 41, and 46-48 now more clearly recites, Applicants' safety scalpel is one in which the blade is safely

and securely retained within a housing detachably coupled to a handle, such that “said blade ... [is] removable with said housing from said handle.” As each of the newly-amended independent Claims also now more clearly recites, the housing is provided with “at least one retaining member forming a hooking structure for fixing therewithin a portion of said blade.” That is, the blade remains safely fixed within the retaining member even when it is “disengaged from said handle” and the blade disengaging “actuator” is itself “disengaged from said blade” (as each of these independent Claims also now more clearly recites).

The full combination of these and other features now more clearly recited by Applicants’ pending Claims is nowhere disclosed by the cited references. While Herbert, et al. does disclose a scalpel whose blade and blade cover (sheath 200) may be removed from the handle 100, its structure and operation are actually quite different in certain significant respects. Perhaps the most apparent in this regard is that for Herbert, et al.’s blade 300 to move with the sheath 200, its bent distal end 302 must be urged against one sidewall of the sheath to extend through the aperture 205. The bent distal end 302 must be held in this position to permit the sheath’s diagonal base edge 206 formed there to “encounter” it and “prevent the blade from passing through the end of the sheath 200,” (Column 6, lines 6-8).

The blade’s distal end is pressed in this regard by the cams 218 extending protuberantly from the thumb button extension 217 deflected by the user, as shown in FIG. 6 of the reference. The distal end is thus maintained in its

engagement with the base edge 206 by the continued pressing force of the cams. Absent that pressing force, the blade would be free to “pass[] through the end of the sheath 200,” (Column 6, lines 7-8), as Herbert et al. readily acknowledges. This departs quite plainly from a housing structure wherein a “retaining member forming a hooking structure” is provided to “fix[] therewithin a portion of said blade when said blade is disengaged from said handle,” even when the blade disengaging “actuator is disengaged from said blade,” as each of the newly-independent Claims 1, 41, and 46-48 now more clearly recites.

Given such contrary and deficient teachings of the Herbert et al. reference, the Newman et al. reference is found to be quite ineffectual to the present patentability analysis. Newman et al.’s surgical scalpel is, in any event, one in which the “blade is fixedly attached to the handle,” (Abstract). Though the scalpel may be formed with a removable shield for the blade, the fixedly attached blade itself is not “removable with ...[a] housing from said handle,” as the newly-amended independent Claims clarify.

It is respectfully submitted, therefore, that the Herbert et al. and Newman et al. references, even when considered together, fail to disclose the unique combination of elements now more clearly recited by Applicants’ pending Claims for the purposes and objectives disclosed in the subject Patent Application.

It is now believed that the subject Patent Application has been placed fully in condition for allowance, and such action is respectfully requested.

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No fee is believed to be due for this Amendment. If there are any charges associated with this filing, however, the Honorable Commissioner for Patents is hereby authorized to charge Deposit Account #18-2011 for such charges.

Respectfully submitted,
For: ROSENBERG, KLEIN & LEE

A handwritten signature in black ink, appearing to be 'Jun Y. Lee', written over a horizontal line.

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